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Besides the power of a maternal uncle to stay a fight, he has also the right to take anything which belongs to his nephew. If the uncle desires anything that is the property of his nephew's father, the nephew must buy it from his father, who will at once give it up when he knows for whom it is required. This power of taking property is reciprocal, and in fact applies to all persons who address one another as *ai-ngoi, ai-ke-ngoi-ngoi* etc. A nephew, for instance, can go to his maternal uncle's kraal, and if his uncle is absent, he can slaughter a goat, or drink his uncle's milk, and nothing would be said. He cannot, however, drive off a cow without his uncle's sanction, but permission would not be refused. Other relatives have likewise some power of taking property. A boy or man can go to his father's or paternal uncle's kraal and take or demand a goat or milk, and in all probability nothing would be said, but if it were done repeatedly the father or uncle would express dissatisfaction or refuse altogether. A man may also go to his sister's husband or wife's brother (*ai-ngoiwai*) and take anything, but an account is kept and the debt has to be returned. If a man is poor it is customary for him to live with one of his brothers-in-law (*ai-ngoiwai*) and help to look after the stock. He is fed for his trouble, and no payment receives less out of every pair of twin goats born.

First cousins and second cousins may not marry, but there is no objection to third cousins marrying if the relationship is on women three *ai-ki-'aitwai* (or *ai-ki-'aiwai*). Thus, a man's son's son's son may not marry the man's brother's son's son's daughter, nor may a man's son's son's son marry the sister's son's son's daughter, but there would be no objection to a man's son's son's son marrying the brother's daughter's daughter's daughter or the sister's daughter's daughter's daughter. Likewise though a man's son's son may not marry the man's maternal uncle's son's son's daughter, he may marry the maternal uncle's son's daughter's daughter. These unions are always contingent on the two parties not belonging to the same sub-class.[1] The rules of consanguinity and affinity which regulate marriage also apply to the sexual intercourse of warriors with immature girls before marriage and to the rights of hospitality after marriage. No warrior may select as his

[1] The Maori are divided into five class: *A-kura, A-Kahungunu, A-Tahanui, A-Whiti-pare*, and *A-Turanga*. Each class is again divided into sub-class, e.g. the *A-Kura* contain amongst others the following: *Ira-pukihiki* and *A-Parikarangi*. The men belonging to the *Ira-pukihiki* sub-class may take as wife the daughter of a man of the same sub-class, but he may marry the daughter of the *A-Parikarangi* or he may marry a daughter of the *A-Kahungunu, A-Tahanui, A-Whiti-pare*, or *A-Turanga* class. Divisions of the various sub-classes are usually to be found in all the districts and sub-districts. Marriages are not affected by geographical considerations, and a man has the same lawful marital relations in all the sub-districts as he has in his own home sub-district.

In his recent book, *The Ethnology of the A-Kamba and other East African Tribes* (Cambridge, 1910), Dobley states (p. 181) that the restrictions governing marriage amongst the Maori are far from simple, and he gives a number of complicated instances. As a matter of fact the rules are quite simple if one remembers (1) that though the class are not exogamous, the sub-class into which the class are divided are exogamous; and (2) that no man may marry a nearer relation than a third cousin, and then only if the terms of relation used are *ai-ki-'aitwai* and *ai-ki-'aiwai*.

There are, however, one or two matters in which the Masai do not show to such advantage. Beyond their work in their own country as scouts and herds the Morans have not laid themselves open to recruitment for any purpose. It was not to be expected that these indolent aborigines would submit to recruitment for service as porters, for which work they are unsuited both by physique and temperament, but it would not have been unreasonable to assume that it might be possible to recruit them in large numbers for service as herds in the stock depots outside their own country. It appears that the Masai are strongly predisposed to residence in their highlands and practically no success attended efforts made to induce them to enlist in that capacity.

The experiments which have from time to time been made to obtain suitable members of the Moran class for service with the forces have already been described (*vide* Chapter VI., Section 6). The Masai are practically the only administered tribe in the East Africa Protectorate who have not assisted the allied cause in the field by the provision of recruits for the King's African Rifles.

Another matter in which the Masai have failed where they might have been expected to succeed was in the provision of donkey boys for transport work in German East Africa. As demonstrating the unpleasantness of the tribe it may be advisable to record at some length the steps that were taken in this connection.

In April, 1917, the military authorities asked for two hundred and fifty youths as donkey drivers and suggested that it might be possible to enlist a number of Masai for this purpose. The District Commissioner, Narok, replied that volunteers were unobtainable and that compulsion would be necessary to obtain such men. The Morans were about to begin their E-Unoto ceremony, and if compulsion were to be applied to obtain the younger men as recruits collection would necessarily be slow. Such recruitment would also be difficult unless high wages were paid as the Masai were accustomed to receive a minimum wage of ten rupees per annum for work in any capacity at any place.

In reply to a query from the Military Commissioner for Labour, asking if the provisions of the Native Followers Recruitment Ordinance could be applied to the Masai Reserve, the Officer-in-Charge replied that they could be applied to the uncircumcised youths the oldest of whom were of age for circumcision. The application of the Ordinance to the Morans at the time when they were about to commence their ceremony would awake strong opposition from them as well as from the Chiefs, Headmen and Elders. It will be remembered that the E-Unoto ceremony had about that time been the subject of considerable negotiations in reference to the claim to Kinangop and Mr. Hemsted thought that a further delay in the performance of the ceremony which would be necessitated by such recruitment would be inadvisable for political reasons.

Endeavours were made to obtain suitable recruits but the number forthcoming was inconsiderable. In the past no compulsion had been brought to bear on the Masai to go out to work, very few settlers had much use for them, and those who did employ them were rather inclined to treat them as pets. In consequence the Masai were very reluctant to come forward to work under the very much less favourable conditions proposed. Volunteers for work as donkey boys in the Carrier Corps were quite unobtainable and Mr. Hemsted considered that the application of the Ordinance would be difficult and probably ineffective. The Masai would willingly pay ten times the maximum penalty allowed rather than do any kind of work they disliked or considered derogatory to their dignity and he was of the opinion that they would also prove extremely unsatisfactory for the class of work required. It was doubtful if they possessed constitutions strong enough to stand the climate or arduous conditions combined with a radical change in their usual diet and he thought that desertions would be frequent. Work such as that in the Carrier Corps would be too sudden a change from their present conditions and if the Masai were to be brought into line with the common policy and controlled to prove their usefulness he considered that some other kind of employment more in accordance with what they were fitted for and which would be less disagreeable to them should be found for them in the first place. The transition from a life of ease and idleness combined with a plentiful diet of milk

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authority always tended to break down in face of the lawless and independent spirit of the Morans. In 1918 the Headmen numbered 46, of whom 28 were unpaid, and 18 received pay ranging from £6 to £36 a year, the former Paramount having a special pay of £90. Fourteen of the 18 paid Headmen were presidents of the Native Councils, and following the custom adopted in many other parts of Kenya, they were given the courtesy title of Chief.

SUBSEQUENT CHANGES IN THE SYSTEM

In the period that has passed since this system was introduced, there have been changes which have to some measure affected the structure of Masai society. The restraint exercised on cattle raiding has robbed the military organization of its former importance, while the growing value of cattle and sheep has enhanced the position of the wealthier stockholders, who now constitute, together with some men of hereditary prestige, an aristocratic element with an acknowledged leadership in Masai society. In other respects the Masai hold tenaciously to their customary institutions and mode of life, and the Morans in particular retain the tradition of indiscipline (in all but a military sense) and the aversion to labour which characterized them in the past.

The Government has in the interval effected changes also in the system of native administration above referred to, with the view of adjusting it more nearly to the pattern followed in other parts of Kenya. The Central Masai Council and the 14 Native Councils gave place in 1939 to two Local Native Councils, at Narok and Kajiado, which have now been formally constituted under the provisions of the Native Authority Ordinance of 1937. The system of tribunals has also been revised, as will be further explained below.[1] The Headmen have been divided into two grades, Headmen and subheadmen, of whom the former have the courtesy title of Chief. They now derive their powers from the Native Authority Ordinance of 1937.

The 16 Headmen have a pay ranging from 15s. to 70s. a month, and the 28 subheadmen a pay ranging from 10s. to 30s. 30 cents a month. Practically all the Headmen or subheadmen are stockholders, and represent the ruling Age-Grade in each of the different Sections; very few of them are educated or literate and only a few can speak Swahili. The Headmen and subheadmen constitute the executive agency of the District administration and of the Local Native Councils, and they are in addition charged with the collection of the native Poll Tax. That is a task which they are said to discharge with some efficiency, though as will be shown subsequently in dealing with the administration of the Tribunals, there are numerous cases of the evasion of tax. The Chiefs can call on the services of a small number of Tribal Police, recruited and controlled by the District Commissioner. Up to 1943 the Tribal Police were the only force of this nature in the Province, but since that year a unit of the Kenya Police Force has been stationed in the Narok district, largely in view of the prevalence of stock thefts.

THE LOCAL NATIVE COUNCILS

Of the two Local Native Councils, that at Narok has 10 nominated and 13 elected members, and that at Kajiado 10 nominated and 14 elected. There is, however, little difference in practice between the nominated and elected members, since all are in fact selected by the District Commissioner after

[1] Page 153.

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THE ORGANIZATION OF THE NATIVE TRIBUNALS

692 As regards the administration of native justice, reference has been made above to the introduction of the system of Native Tribunals in 1918. It became obvious that these Tribunals were not generally recognized by the Masai, who preferred that such issues as arose between them should be settled in the customary manner by the Headmen or Elders. At present there are only two regularly constituted Tribunals in the Narok and two in the Kajiado District, with an Appeal Tribunal in each district.[1] Three of these Tribunals consist of a permanent salaried President and three salaried Tribunal Elders, taken from a panel of eight to twelve Elders; in Ngong the Tribunal has five Elders. The Tribunal Elders represent different tribal Sections and are nominated by the District Commissioner after consultation with the Headmen and tribesmen. There are still a few Chiefs on the Tribunals, but in accordance with the policy followed elsewhere in Kenya, these are now being removed. There is in addition a loosely constituted Tribunal in the Loita with a President and an indefinite number of members, but they only hear a small number of cases a year.

Two of the Presidents receive salaries of 50s. and 75s. a month; the others a sitting fee of 10s. a day. In two Tribunals the Elders receive 40s. a month and 18s. a month; in the others they receive a sitting fee of 5s. a day. The Appeal Tribunals are composed of members of the Local Native Authority Councils detailed at each sitting of the Council to hear such Appeals as are pending, an unusual but apparently a satisfactory arrangement. [465]

691 The preference for referring cases to the arbitration of local headmen or 692 elders persists, and the civil issues which come before the regular Tribunals are few in number and relate mainly to matrimonial issues. In 1946, for example, the Native Tribunals dealt only with the following cases:—

	Number of Original Cases	Appeals to Native Appeal Tribunals	Appeals to District Commissioners	Appeals to Provincial Commissioner
Civil	189	90	6	3
Criminal ..	55	Not Available	..	..

These figures exclude, however, the large number of cases referring to breaches of the Poll Tax Ordinance, which in Narok alone were over 300 in 1946 and over 1,500 in 1945.

695 Judging only from such figures as are available for the appeals to Administrative Officers, the decisions of the Tribunals appear to have been generally accepted, but it is difficult to arrive at any judgement on the matter in view of the restricted field of civil issues or of true criminal issues which have come before the Tribunals. In paragraph 417 of his study of the Kenya Native Tribunals Mr. A. Phillips has called attention to the necessity for a close supervision over the exercise of criminal jurisdiction by Tribunals such as these, which are still at such a rudimentary stage of development, and he further points out that in civil issues this is in particular necessary in order to prevent

[1] These Tribunals differ from those given on page 150 of the Report on Kenya Native Tribunals, A. Phillips, 1945.